

in fact understood in its defamatory sense. The Plaintiff requested that this Court consider the Emmins Affidavit if it converts the Motion to Dismiss to a Motion for Summary Judgment.

As explained by the Plaintiff, the evidence provided by the Emmins Affidavit casts serious doubt on TripAdvisor's creation, publication, and distribution of the "2011 Dirtiest Hotels" list. The Plaintiff is entitled to have a jury consider these facts, as they provide genuine issues of material fact about whether a reasonable person would, in fact, conclude that the "2011 Dirtiest Hotels" list was defamatory. Therefore, as this time, the Plaintiff respectfully asks this Court to deny TripAdvisor's Motion to Strike or Disregard The Affidavit of Christopher Emmins.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing document has been filed electronically and will be sent by the operation of the Court's electronic filing system to all parties indicated on the electronic filing system receipt, and all persons or parties not on the electronic filing receipt will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

This the 29th day of May, 2012.

s/ John T. Milburn Rogers

John T. Milburn Rogers